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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

SEP 22 2006

at 9 o'clock and 20 min. 4 M 4
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

ALOHA SPORTS INC., a Hawaii
corporation,

Plaintiff,

vs.

THE NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION, an
unincorporated association,

Defendant.

CIVIL NO. CV04-00204 DAE/KSC
(Antitrust)

ORDER DISMISSING PLAINTIFF
ALOHA SPORTS INC.'S FIRST
CAUSE OF ACTION (VIOLATION OF
SHERMAN ACT SECTION 1) WITH
PREJUDICE AND ITS REMAINING
CAUSES OF ACTION WITHOUT
PREJUDICE

**ORDER DISMISSING PLAINTIFF ALOHA SPORTS INC.'S
FIRST CAUSE OF ACTION (VIOLATION OF SHERMAN
ACT SECTION 1) WITH PREJUDICE AND ITS
REMAINING CAUSES OF ACTION WITHOUT PREJUDICE**

In its “Order Provisionally Granting Plaintiff’s Motion To Voluntarily Dismiss Its First Cause Of Action With Prejudice And Its Remaining Causes Of Action Without Prejudice” entered July 5, 2006 herein (the “July 5, 2006 Order”), the Court found: 1) no basis to deny the request of Plaintiff Aloha Sports Inc. (“ASI”) to dismiss its Sherman Act claim with prejudice; 2) considerations of judicial economy and fairness mitigate in favor of retaining supplemental jurisdiction over the remaining state law claims; and 3) Defendant The National Collegiate Athletic Association (“NCAA”) failed to show legal prejudice sufficient to preclude ASI from voluntarily dismissing its state court claims without prejudice.

As a condition of permitting ASI to dismiss its state law claims without prejudice, the Court required ASI to stipulate that all discovery materials assembled to date can be used in any subsequent proceeding between the parties, and that the following expenses were reimbursable: 1) the costs and attorney’s fees incurred by the NCAA in opposing ASI’s motion to bifurcate or in the alternative to extend the discovery deadline; and 2) the costs and attorney’s fees incurred by

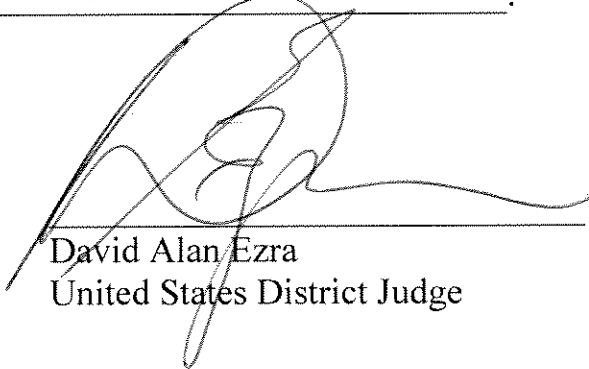
the NCAA in opposing ASI's Motion to Voluntarily Dismiss Its First Cause of Action (Violation of Sherman Act Section 1) With Prejudice and Its Remaining Causes of Action Without Prejudice. These expenses were determined to consist of \$26,166.19 in attorneys' fees and \$114.60 in costs, for a total award of \$26,280.79. See "Findings and Recommendation Regarding Attorneys' Fees and Costs" dated August 23, 2006, adopted by the "Order Adopting Magistrate's Findings and Recommendation" entered September 8, 2006.

Pursuant to, and in reliance upon, ASI's "Notice Of Compliance With Conditions Permitting It To Dismiss Its State Law Claims Without Prejudice Pursuant To The 'Order Provisionally Granting Plaintiff's Motion To Voluntarily Dismiss Its First Cause Of Action With Prejudice And Its Remaining Causes Of Action Without Prejudice' Entered July 5, 2006" filed on September 11, 2006 herein, the Court finds that ASI is in full compliance with the conditions set forth in the July 5, 2006 Order.

Based on the above, the Court dismisses ASI's First Cause of Action (Violation of Sherman Act Section 1) with prejudice and its remaining causes of action without prejudice.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, SEP 22 2006.



David Alan Ezra
United States District Judge

Aloha Sports Inc. v. The National Collegiate Athletic Association, CV No. 04-00204 DAE/KSC; ORDER DISMISSING PLAINTIFF ALOHA SPORTS INC.'S FIRST CAUSE OF ACTION (VIOLATION OF SHERMAN ACT SECTION 1) WITH PREJUDICE AND ITS REMAINING CAUSES OF ACTION WITHOUT PREJUDICE